

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION**

Elena Cantu

Plaintiff

v.

FEDERAL DEPOSIT INSURANCE
CORPORATION, AS RECEIVER FOR
FIRST NATIONAL BANK, EDINBURG,
TEXAS et al

Defendant

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Civil Action No. 7:15-cv-107

**NOTICE OF REMOVAL
[formerly 139th Judicial District Court,
Hidalgo County, Texas, Cause No. C-
1759-11-C]**

NOTICE OF REMOVAL

Federal Deposit Insurance Corporation ("FDIC"), in its capacity as Receiver for FIRST NATIONAL BANK, EDINBURG, TEXAS, by and through its undersigned counsel, hereby notices removal of this action pursuant to 12 U.S.C. § 1819(b)(2)(B) from the 139th District Court of Hidalgo County, Texas, to the United States District Court for the Southern District of Texas, McAllen Division, and respectfully submits the following information to this Honorable Court:

BACKGROUND

1. Plaintiff filed her civil action on July 1, 2011, and it is now pending in the 139th District Court of Hidalgo County, Texas, Case No.C-1759-11-C. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, orders and docket sheet from the state court file, including an Index thereof, are attached as Exhibit A.

2. The FDIC is a corporation duly authorized and organized under the laws of the United States of America. *See* 12 U.S.C. §§ 1811, *et seq.*

3. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Clerk of the District Court of Hidalgo County, Texas.

BASIS OF JURISDICTION

(28 U.S.C. § 1331, 28 U.S.C. § 1441 and 12 U.S.C. § 1819)

4. This Court has removal jurisdiction under 12 U.S.C. § 1819(b)(2)(B) which provides that the FDIC as Receiver "may, without bond or security, remove any action, suit or proceeding from a state court to the appropriate United States district court before the end of the 90-day period beginning on the date the action, suit, or proceeding is filed against the Corporation or the Corporation is substituted as a party." 12 U.S.C. § 1819(b)(2)(B). This action is removed pursuant to 28 U.S.C. § 1441(a) because this Court has original jurisdiction of all actions in which the FDIC is a party under 28 U.S.C. § 1331 (federal question jurisdiction) and 12 U.S.C. § 1819 (all cases in which FDIC is a party are deemed to arise under federal law). The FDIC-R was substituted as a party by Order of the 139th Hidalgo County District Court on February 20, 2015. See Exhibit A, at Tab 35.

VENUE

5. Venue is proper in this Court because it is the district and division embracing the place where such action is pending. 28 U.S.C. § 1441(a).

WHEREFORE, the FDIC respectfully removes this action from the 139th District Court of Hidalgo County, Texas, pursuant to 12 U.S.C. § 1819(b)(2)(B) and 28 U.S.C. § 1441.

This the 12th day of March, 2015.

{signature on next page}

CERSONSKY, ROSEN & GARCÍA, P.C

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CORPORATION, AS RECEIVER
FOR FIRST NATIONAL BANK,
EDINBURG, TEXAS.

CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2015, I electronically filed the foregoing NOTICE OF REMOVAL with the Clerk of the Court using the CM/ECF system and I hereby certify that I have mailed the document to the following non CM/ECF participants:

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